

LEGAL NOTICE
Notice of Proposed Rulemaking
Public Hearing

Notice is hereby given of proposed rulemaking and public hearing by the Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (HIOSH), to Parts 1, 2, 3, 5, 6, 7, and 8 of Title 12, Subtitle 8, Hawaii Administrative Rules (HAR), pursuant to the Hawaii Occupational Safety and Health Law, Section 396-4, Hawaii Revised Statutes (HRS), and the Hawaii Administrative Procedure Act, Chapter 91, HRS.

The public hearing will consider the amendments to chapters 12-50, 12-52.1, 12-55, general, legal and administrative provisions, chapter 12-60, general industry standards, chapter 12-110, construction standards, chapter 12-170, shipyard standard, 12-180, marine terminal standards, 12-190, longshoring standards, the repeal of general industry chapters 12-62.1, 12-63.1, 12-64.1, 12-66.1, 12-67.2, 12-69.1, 12-71.1, 12-72.1, 12-73.1, 12-74.1, 12-77.1, 12-78.2, 12-79.1, 12-80.1, 12-83.1, 12-88.1, 12-89.1, 12-91.1, 12-92.1, 12-93.1, 12-95.1, 12-97.1, 12-100.1, 12-105, construction standards, chapters 12-112.1, 12-113.1, 12-114.2, 12-115.1, 12-116.1, 12-117.1, 12-118.1, 12-119.2, 12-120.1, 12-121.2, 12-122.2, 12-125.1, 12-126.1, 12-127.1, 12-128.1, 12-129.1, 12-130.1, 12-131.1, 12-132.2, 12-133.2, 12-134.1, 12-136.1, 12-141.1, 12-142.2, 12-145.1, 12-146, 12-147, 12-148.1, 12-149, 12-150, 12-151, 12-152, 12-153.1, 12-154.1, 12-155.1, 12-156, 12-157, health chapters 12-200.1, 12-201, 12-202, 12-203.1, 12-204.1, 12-205.1, 12-206, 12-207, health standards, the adoption of chapters 12-106, general industry standard, and 12-208, other safety and health standards.

The proposed changes are as follows:

1. All of the current general industry and occupational health chapters contained in Parts 2 and 8 of Title 12, Subtitle 8, HAR, with the exception of chapter 12-60, General Safety and Health Requirements, will be deleted. Title 29, Part 1910 of

- the Code of Federal Regulations (CFR), 2011 edition, comprising the federal general industry and occupational health standards, will be incorporated into new section 12-60-50, Standards, thereby consolidating and streamlining those standards into one section. The specific standards, which reflects this State's versions of the corresponding federal standards, are located in section 12-60-50. The existing state differences, which includes definitions to the general industry and occupational health standards will remain the same. The incorporation of 29 CFR, Part 1910, 2011 edition, will make this State's general industry and occupational health standards at least as effective as the OSHA standards.
2. All of the construction standard chapters, Part 3, Title 12, Subtitle 8, HAR, with the exception of chapter 12-110, General Safety and Health Requirements, will be deleted. Title 29, Part 1926 CFR, 2011 edition, comprising the federal construction standards will be incorporated into new section 12-110-50, Standards, thereby consolidating and streamlining the standards into one section. The state specific standards, which reflects this State's version of the corresponding federal standards, are located in section 12-110-50. The existing state differences to the specific standards, which includes definitions to the construction standards will remain the same, with the addition of new definitions for dwelling, dwelling unit, residential construction, and townhouse, and are located in section 12-110-50. The federal standards pertaining to crane operator qualifications and certification and training are being superseded by state specific standards contained in chapter 12-48 of Title 12, Subtitle 7, HAR. The incorporation of 29 CFR, Part 1926, 2011 edition, will make the State's construction standards at least as effective as the federal OSHA standards.
 3. Chapter 12-50, General Provisions and Definitions, is being amended to add definitions in section 12-50-2 for, "dwelling," "dwelling unit," "residential

construction,” and “townhouse,” and further clarify the definitions for “employee” and “employer”.

4. Chapter 12-52.1, Recording and Reporting Occupational Injuries and Illnesses, is being amended to incorporate Title 29 CFR, Part 1904, 2011 edition, pertaining to recording and reporting of occupational injuries and illnesses. The state specific differences to the Recording and Reporting Occupational Injuries and Illnesses standard will remain the same.
5. Chapter 12-55, Rules of DOSH Practice and Procedure Concerning DOSH Access to Employee Medical Records, is being amended to update the reference to the division as Hawaii Occupational Safety and Health Division (HIOSH).
6. Chapters 12-170, Shipyard standards, 12-180, Marine Terminal standards, 12-190, Longshoring standards, are being amended to reflect the incorporation of Title 29 Parts 1915, 1917, and 1918, respectively, 2011 editions. The incorporation of these parts will make the State’s standards at least as effective as the OSHA standards.
7. The adoption of new chapter 12-106, Other General Industry Standards, reflects the incorporation of the American National Standards Institute (ANSI) A11.1-1973, “American National Standard Practice for Industrial Lighting”. This ANSI standard was previously denoted as chapter 12-66.1, Illumination, and is being separated into a new chapter due to the incorporation of 29 CFR 1910 into section 12-60-50. The ANSI reference year is being updated to the 1973 edition.
8. The adoption of new chapter 12-208, Occupational Safety and Health Standards for Agriculture, reflects the incorporation of Title 29 CFR, Part 1928 CFR, 2011 edition. The incorporation of 29 CFR, Part 1928, will place all of the standards that apply to agriculture into one chapter. Previously, all of the various standards pertaining to agriculture were spread throughout the general industry standards.

The incorporation of the 29 CFR, Part 1928, 2011 edition, will make this State's agriculture standards at least as effective as the OSHA standards.

A copy of the proposed rule changes will be made available for public viewing from the first working day that the legal notice appears in the Honolulu Star-Advertiser, through the day the public hearing is held, from Monday – Friday, between the hours of 2:00 p.m. – 4:00 p.m., at the following locations: 830 Punchbowl Street. Room 423, Honolulu, Hawaii 96813; 75 Aupuni Street, Hilo, Hawaii 96720; 2264 Aupuni Street, Wailuku, Hawaii 96793; and 3060 Eiwa Street, Lihue, Hawaii 96766. A copy of the proposed rules may be obtained for a prepaid fee plus postage or viewed at our website at: <http://hiosh.hawaii.gov> .

Interested persons may present at the public hearing any written or oral data, views, arguments, comments, and objections concerning the proposals at:

HONOLULU, OAHU January 27, 2012, 1:00 pm
Keelikolani Building
830 Punchbowl Street
Room 427
Honolulu, Hawaii 96813

All submissions for the record must be received prior to the scheduled public hearing. The public hearing will be continued, if necessary, to a time, date, and place announced at the scheduled hearing.

Interested persons may submit written data, views, arguments, comments, and objections concerning the proposals to the Hawaii Occupational Safety and Health Division, 830 Punchbowl Street, Room 423, Honolulu, Hawaii 96813. All submissions for the record must be received at or prior to the scheduled public hearing.

Auxiliary aids and services are available upon request. Call the Administration and Technical Support Branch at (808) 586-9086 (voice), (808) 586-8847 (TTY), or

1-888-569-6859 (TTY neighbor islands). A request for reasonable accommodations should be made no later than ten working days prior to the needed accommodations.

Dated: December 27, 2011

DWIGHT TAKAMINE
Director
Department of Labor and
Industrial Relations